IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

RP.No. 763 of 2007()

AGAINST THE JUDGEMENT/ORDER IN AR.16/2007 Dated 19/07/2007
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PETITIONER/OPPOSITE PARTY :

ROADS AND BRIDGES DEVELOPMENT
CORPORATION OF KERALA LTD., 2ND FLOOR,
PREETHI BUILDINGS, M.V.ROAD, PALARIVATTOM,
COCHIN- 682 025 REPRESENTED BY ITS
MANAGING DIRECTOR.

BY ADV. SRI.M.VIJAYAKUMAR

RESPONDENTS: APPLICANT

SPL INFRASTRUCTURE PVT.LTD.,
ENGINEERING CONTRACTORS, R.O.NO.24, 1ST FLOOR,
CRESCENT PARK STREET, T.NAGAR, CHENNAI-600 017,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.RAJIV ABRAHAM GEORGE

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

R.P. No. 763 OF 2007
IN
A.R. No. 16 OF 2007

Dated this the 14th day of August, 2007

JUDGMENT

In this Review Petition, the Roads and Bridges Development Corporation who were the opposite party in the Arbitration Request seeks review of my order dt.19.07.07 on various grounds.

2. I have heard the submissions of Sri.M.Vijayakumar, learned counsel for the petitioner and also those of Sri.Rajiv Abraham George, learned counsel for the respondent, the applicant in the Arbitration Request.

3. My attention was drawn by Sri.M.Vijayakumar to paragraph 2 of my order wherein I have said that no counter affidavit or statement of objections has been filed by the opposite party. My attention was also drawn by the learned counsel to the detailed counter affidavit dt.03.07.07 which was on file even as I passed the order dt.19.07.07.

It is true that a detailed counter affidavit has been actually filed by the petitioner in the Arbitration Request and that it was without noticing that counter affidavit that I passed the order appointing Justice James, a retired Judge of this Court as Arbitrator. However, having gone through the counter affidavit and having perused Annexures R1 A to R1 M produced along with the same, I am of the considered view that neither

the contentions raised in the counter affidavit nor Annexures produced along with the same would stand in the way of the Arbitration Request being allowed. The Review Petition will stand allowed only to the limited extent of deleting paragraph 2 of my order and substituting the same with the following paragraph:

"2. A detailed counter affidavit has been filed by the opposite party. Along with that counter affidavit, Annexures R1 A to R1 M photocopies of various documents relied on by the opposite party in support of its contention that the petitioner was at fault have been produced. All the contentions raised in the counter affidavit pertain to the merits of the opposite party's version of the dispute. Those contentions do demonstrate that the dispute exists and have nothing to do with the arbitratability of the dispute."

PIUS C. KURIAKOSE, JUDGE

btt